

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	MDL No. 02419
LITIGATION)	Docket No. 1:13-md-2419-RWZ
_____)	
)	
This document relates to:)	
)	
All Cases against the Box Hill Defendants ¹)	
)	

MOTION FOR EXTENSION OF COMMON FACT DISCOVERY DEADLINE
APPLICABLE TO CASES NAMING BOX HILL DEFENDANTS

Box Hill Surgery Center, LLC, Ritu T. Bhambhani, M.D., and Ritu T. Bhambhani, M.D., LLC (collectively, "Box Hill Defendants"), with the consent of Plaintiffs' counsel in the individual cases pending before this Court (n.1), file the following Motion to extend the common fact discovery deadline in these cases and state:

Box Hill Defendants file this Motion to amend MDL Order #9 (Dkt. 1425) and to extend the deadline for common fact discovery set forth in Judge Zobel's July 9, 2015 Order (Dkt. 2075) to provide additional time for depositions.

In the Court's July 9, 2015 Order, the close of common fact discovery as to Box Hill Defendants is January 22, 2016. (Dkt. 2075, p.3). Since this Order, discovery deadlines as to other large health care provider defendants have been extended several times to properly pursue common discovery. Box Hill Defendants have been a part of the process and now also need additional time.

¹ This pleading applies to the following cases: Handy v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14019-RWZ; Armetta v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14022-RWZ; Torbeck v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14023-RWZ; Kashi v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14026-RWZ; Bowman v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14028-RWZ; Dreisch v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14029-RWZ; Davis v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14033-RWZ; Farthing v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14036-RWZ

Box Hill Defendants, with the assent of Plaintiffs' counsel, request the Court to extend common fact discovery from January 22, 2016 to March 25, 2016. This will allow the time needed to complete necessary depositions and other common fact discovery. To date, the parties to this Motion have worked to exchange documents, schedule depositions of Box Hill employees, and are addressing discovery requests.

For Plaintiffs and Defendants, certain documents yet to be produced may be relevant to depositions to be taken. Counsel have agreed to dates in February, 2016, for the depositions of Defendant Ritu Bhambhani, M.D. and Andrew Vickers, R. N., who was involved with ordering the MPA at issue from NECC. Depositions of additional common fact witnesses remain to be scheduled.

This Court has broad discretion to manage scheduling and discovery. *See United States v. 29,540.00 in United States Currency*, 2013 U.S. Dist. LEXIS 9735, *15 (D. Mass. Jan. 24, 2013). A scheduling order may be modified with the judge's consent. *See Fed. R. Civ. P. 16(b)(4); Girl Scouts of the USA, et al.*, 383 F. 3d 7, 12 (1st Cir. 2014). Good cause exists where a deadline "may not reasonably be met, despite the diligence of the party seeking the extension." *See House of Clean, Inc. v. St. Paul Fire & Marine Ins. Co.*, 775 F. Supp. 2d 296, 298 (D. Mass. 2011) (citing *Tele-Connections, Inc. v. Perception Tech. Corp.*, Civ. A. No. 88-2365-S, 1990 WL 180707, at *1 (D. Mass. Nov. 5, 1990)).

No trial dates have been set. The parties stipulate that there will not be any prejudice in the pending cases to the Plaintiffs or the Box Hill Defendants by this requested extension of the common fact discovery deadline.

WHEREFORE, Box Hill Defendants, with the assent of Plaintiffs' counsel, request that the common fact discovery deadline set forth in Judge Zobel's July 9, 2015 Order (Dkt. 2075), be extended until March 25, 2016, as noted in the proposed Order, attached hereto.

Dated: December 15, 2015

Respectfully submitted,

/s/ Gregory K. Kirby

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CERTIFICATE OF SERVICE

I, Gregory K. Kirby, certify that I caused a copy of the above Motion to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's System, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: December 15, 2015

Respectfully submitted,

/s/ Gregory K. Kirby

Gregory K. Kirby